

AUG 01 2011

Board of Vocational Nursing  
and Psychiatric Technicians

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BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. PT-2007-736

**KATHERINE ANN MARCELLINO**  
287 N. 2nd Street  
Coalinga, CA 93210  
Psychiatric Technician License No. PT 32246

**A C C U S A T I O N**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. ("Complainant") brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians ("Board"), Department of Consumer Affairs.

**Psychiatric Technician License**

2. On or about July 20, 2004, the Board issued Psychiatric Technician License Number PT 32246 to Katherine Ann Marcellino ("Respondent"). The psychiatric technician license was in full force and effect at all times relevant to the charges brought herein and will expire on January 31, 2012, unless renewed.

**STATUTORY PROVISIONS**

3. Section 4520 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensed psychiatric technician for any reason provided in

1 Article 3 (commencing with section 4520) of the Psychiatric Technicians Law (Code § 4500, et.  
2 seq.)

3 4. Code section 118, subdivision (b) of the Code provides, in pertinent part, that the  
4 expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary  
5 action during the period within which the license may be renewed, restored, reissued or  
6 reinstated. Under Code section 4545, the Board may renew an expired license at any time within  
7 four years after the expiration.

8 5. Code section 4521 states, in pertinent part:

9 The board may suspend or revoke a license issued under this chapter [the  
10 Psychiatric Technicians Law (Bus. & Prof Code, 4500, et seq.)] for any of the  
following reasons:

11 (a) Unprofessional conduct, which includes but is not limited to any of  
12 the following:

13 (5) Use any controlled substance as defined in Division 10 (commencing  
14 with Section 11000) of the Health and Safety Code, or any dangerous drug as defined  
15 in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or  
injurious to himself or herself, any other person, or the public or to the extent that the  
use impairs his or her ability to conduct with safety to the public the practice  
authorized by his or her license.

16 (6) Be convicted of a criminal offense involving the falsification of  
17 records concerning prescription, possession, or consumption of any of the substances  
described in paragraphs (4) and (5), in which event the record of the conviction is  
18 conclusive evidence of the conviction. The board may inquire into the circumstances  
surrounding the commission of the crime in order to fix the degree of discipline.

19 (f) Conviction of any offense substantially related to the qualifications,  
20 functions, and duties of a psychiatric technician, in which event the record of the  
conviction shall be conclusive evidence of the conviction. The board may inquire  
21 into the circumstances surrounding the commission of the crime in order to fix the  
degree of discipline.

22 6. Code section 4523 states:

23 A plea or verdict of guilty or a conviction following a plea of nolo  
24 contendere made to a charge substantially related to the qualifications, functions and  
duties of a psychiatric technician is deemed to be a conviction within the meaning of  
25 this article. The board may order the license suspended or revoked or may decline to  
issue a license, when the time for appeal has lapsed, or the judgment or conviction  
26 has been affirmed on appeal or when an order granting probation is made suspending  
the imposition of sentence, irrespective of a subsequent order under the provisions of  
27 Section 1203.4 of the Penal Code allowing the person to withdraw his plea of guilty  
and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing  
28 the accusation, information, or indictment.

1 **COST RECOVERY**

2 7. Code section 125.3 provides, in pertinent part, that a Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation or violations of  
4 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
5 enforcement of the case.

6 **FIRST CAUSE FOR DISCIPLINE**

7 **(Criminal Convictions)**

8 8. Respondent is subject to disciplinary action pursuant to Code section 4521,  
9 subdivision (f), in that Respondent has been convicted of the following crimes that are  
10 substantially related to the qualifications, functions, and duties of a licensed psychiatric  
11 technician:

12 a. On or about January 7, 2000, in the Superior Court, County of Solano, California, in  
13 the matter entitled *People vs. Katherine Ann Marcellino*, 1999, Case No. F-C-178849-M,  
14 Respondent was convicted by the court of a violation of Vehicle Code section 23152, subdivision  
15 (b) (driving with a blood alcohol level of .08% or more), a misdemeanor.

16 b. On or about June 27, 2006, in the Superior Court, County of Fresno, California, in the  
17 matter entitled *People vs. Katherine Ann Marcellino*, 2006, Case No. CT06100134 M A,  
18 Respondent was convicted by the court following her plea of nolo contest to a violation of  
19 Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or  
20 more), a misdemeanor. The circumstances of the crime are that on or about February 12, 2006,  
21 Respondent was arrested for driving with a blood alcohol level of .08% or more, following a  
22 traffic stop. Respondent's blood alcohol measured .14%.

23 c. On or about December 20, 2007, in the Superior Court, County of Fresno, California,  
24 in the matter entitled *People vs. Katherine Ann Marcellino*, 2007, Case No. M07101254 M A,  
25 Respondent was convicted by the court following her plea of nolo contendere to a violation of  
26 Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level of .08% or  
27 more), a misdemeanor, with admissions of two prior DUI convictions. The circumstances of the  
28 crime are that on or about September 18, 2007, Respondent was arrested in the driveway of her

1 residence after she crashed her vehicle into a building, striking an ice machine and then running  
2 down a stop sign. Respondent fled the scene of both accidents. Respondent's blood alcohol level  
3 was measured twice at .11%.

4 d. On or about August 24, 2009, in the Superior Court, County of San Luis Obispo,  
5 California, in the matter entitled *People vs. Katherine Ann Marcellino*, 2009, Case No.  
6 M000435626 Respondent was convicted by the court following her plea of nolo contendere to a  
7 violation of Vehicle Code section 14601.1, subdivision (A) (driving with a suspended license), a  
8 misdemeanor. The circumstances of the crime are that on or about July 10, 2009, Respondent  
9 was arrested by the Paso Robles Police for driving with a suspended driver's license.

#### 10 **SECOND CAUSE FOR DISCIPLINE**

##### 11 **(Criminal Convictions Involving Alcohol)**

12 9. Respondent is subject to disciplinary action pursuant to Code section 4521,  
13 subdivision (a)(6), on the grounds of unprofessional conduct, in that Respondent has been  
14 convicted of crimes involving the consumption of alcohol, as more particularly set forth in  
15 paragraph 8, subparagraphs a, b, and c, above.

#### 16 **THIRD CAUSE FOR DISCIPLINE**

##### 17 **(Use Alcohol to an Extent or in a Manner Dangerous or Injurious to Herself)**

18 10. Respondent is subject to disciplinary action pursuant to Code section 4521,  
19 subdivision (a)(5), on the grounds of unprofessional conduct, in that on or about October 7, 1999,  
20 February 12, 2006, and September 18, 2007, Respondent used alcohol to an extent or in a manner  
21 dangerous or injurious to herself, as more particularly set forth in paragraph 8, subparagraphs a, b,  
22 and c, above.

#### 23 **PRAYER**

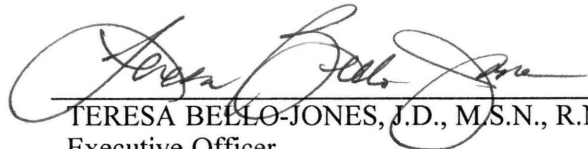
24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
25 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
26 issue a decision:

27 1. Revoking or suspending Psychiatric Technician License Number PT 32246, issued to  
28 Katherine Ann Marcellino;

1           2.     Ordering Katherine Ann Marcellino to pay the Board of Vocational Nursing and  
2     Psychiatric Technicians the reasonable costs of the investigation and enforcement of this case,  
3     pursuant to Business and Professions Code section 125.3; and,

4           3.     Taking such other and further action as deemed necessary and proper.

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6  
7     DATED:     August 1, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
*Complainant*

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